

ESTTA Tracking number: **ESTTA414939**

Filing date: **06/16/2011**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	James Murta
Granted to Date of previous extension	07/13/2011
Address	P O Box 620906 Littleton, CO 80162 UNITED STATES
Party who filed Extension of time to oppose	JamesMurta
Relationship to party who filed Extension of time to oppose	The name is the same. Apparently, a space between the first and last names was omitted during the filing of the extension request.

Correspondence information	Kurt Leyendecker Leyendecker & Lemire 9137 E Mineral Circle Suite 280 Centennial, CO 80112 UNITED STATES kurt@coloradoiplaw.com Phone:3037680123
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Applicant Information

Application No	77886135	Publication date	03/15/2011
Opposition Filing Date	06/16/2011	Opposition Period Ends	07/13/2011
Applicant	Suarez, Victor 741 Crestview Dr. Millbrae, CA 94030 UNITED STATES		

Goods/Services Affected by Opposition

Class 025. First Use: 1997/08/00 First Use In Commerce: 1997/08/00
All goods and services in the class are opposed, namely: Clothing, namely, shirts, sweatshirts, jackets, pants and hats

Grounds for Opposition

Torres v. Cantine Torresella S.r.l. Fraud 808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)

Attachments opposition6162011.pdf (17 pages)(137007 bytes)

	ExhibitsAB.pdf (16 pages)(3943647 bytes) ExhibitsDH.pdf (13 pages)(2349356 bytes) ExhibitsIN.pdf (13 pages)(5307118 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Kurt Leyendecker/
Name	Kurt Leyendecker
Date	06/16/2011

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Trademark Application Serial No. 77886135

For the Mark: DERBY OF SAN FRANCISCO

_____)	
James Murta)	
)	
Petitioner)	
)	OPPOSITION
v.)	PROCEEDING No. _____
)	
Victor Suarez)	
)	
Registrant)	
_____)	

/Kurt Leyendecker/
Kurt Leyendecker
Leyendecker & Lemire, LLC
Counsel for Opposer
9137 East Mineral Circle, Suite 280
Centennial, Colorado 80112
Telephone: (303)-768-0123
Facsimile: (303)-672-9200
Email: Kurt@coloradoiplaw.com

NOTICE OF OPPOSITION

Opposer James Murta (hereafter “Opposer”), a U.S. citizen located in Littleton, Colorado and having a mailing address of P.O. Box 620906, Littleton, CO 80162, believes he will be damaged by the registration of U.S. Application Serial No. by Victor Suarez (hereafter “Applicant”) of 741 Crestview Dr., Millbrae, CA 94030 for the mark DERBY OF SAN FRANCISCO in International Class 25 and hereby opposes the registration thereof.

GROUND FOR OPPOSITION:

As specifically and particularly provided for below, the Opposer alleges Applicant committed fraud upon the Trademark Office in the filing and prosecution of Application No. 77886135 and therefore the subject mark, DERBY OF SAN FRANCISCO is not deserving of registration. Registration of the Applicant’s mark will hinder or prevent the allowance and eventual registration of the Opposer’s Intent to Use Application serial No. 77905692 for a similar mark, DERBY OF SAN FRANCISCO. Prosecution of the Opposer’s application has been suspended pending the disposition of the Applicant’s Application.

Statement of Facts

1. Applicant filed Trademark Application serial No. 77886135 (hereafter “Application”) for a Design plus the words DERBY OF SAN FRANCISCO (hereafter “the Mark”) on December 4, 2009 claiming use of the mark for hats, jackets, jeans, pants, shirts and sweatshirts. The Applicant claimed a first use in commerce date and first use in interstate commerce date of August, 1997.

2. The Applicant provided specimens in support of his Application at the time of filing consisting of three photographs. Copies of the photographs are attached as Exhibit A. The first photograph shows a jacket. The second photo shows a collar tag presumably from the jacket of the first photo. The third photo comprises a hang tag presumably the one shown attached to the jacket in the first photo.
3. The collar tag of the second photo is generally similar but not identical to the drawing presented in the Application. Notably: (i) the number of windows in the building at the base of the left tower differ from the number in the drawing; (ii) the mountain range behind the bridge has four distinct peaks whereas the range in the specimen only has three peaks that are much less pronounced; (iii) the design and structure of the prominent central support tower differ significantly between the drawing and the collar tag; (iv) there are no discernable vertically-extending support cables to the right of the central support tower on the collar tag whereas the drawing shows a discrete number of vertically-extending support cables; (v) the number of vertically-extending support cables to the left of the central support tower differ from the number of vertically-extending support cables shown in the drawings; and (vi) the lines in the drawing of the bridge are generally uniform in width whereas the lines in the drawings vary in width along their lengths.
4. The collar tag of the second photo includes an indication that the subject jacket was “MADE IN KOREA”.

5. The collar tag of the second photo includes the encircled “R” ostensibly indicating that the associated mark is federally registered.
6. The hang tag of the third photo differs significantly from the drawing. Most significantly, the hang tag does not include the phrase “of San Francisco”. The word “derby is located below the bridge and not to the right of it as in the drawing. Additionally, the bridge includes a second support tower to the right of the central support tower that is not shown in the drawing.
7. The hang tag of the third photo includes the encircled “R” ostensibly indicating that the associated mark is federally registered.
8. The only federal registration (Reg. No. 1348076) on record with the Trademark Office comprising a bridge in association with the words “derby of San Francisco” was registered to L & S Sportswear, Inc, a California Corporation. The registration was canceled on April 15, 2006.
9. On information and belief, Applicant has or has had no legal association with L & S Sportswear, Inc.
10. Each of the photos presented as specimens are labeled on the lower right hand corner with the name “CAPT. SPALDING.”
11. On information and belief, CAPT. SPALDING. is the moniker of Stephen Haron, an ebay seller of vintage clothing.
12. On information and belief, Applicant does not have any association with CAPT. SPALDING.
13. On information and belief, Applicant obtained the three photos he used for his specimens from an ebay listing of a vintage Derby of San Francisco jacket sold by

Capt. Spalding. in an auction that ended on Nov. 24, 2009. A printout of the auction is provided as Exhibit B.

14. On information and belief, Applicant was not using the Mark in interstate commerce as of August 1997 in conjunction with shirts.
15. On information and belief, Applicant was not using the Mark in interstate commerce as of December 4, 2009 in conjunction with shirts.
16. On information and belief, Applicant has not maintained continuous use of the Mark in conjunction with shirts from either or both August 1997 and December 4, 2009 through to present.
17. On information and belief, Applicant was not using the Mark in interstate commerce as of August 1997 in conjunction with sweatshirts.
18. On information and belief, Applicant was not using the Mark in interstate commerce as of December 4, 2009 in conjunction with sweatshirts.
19. On information and belief, Applicant has not maintained continuous use of the Mark in conjunction with sweatshirts from either or both August 1997 and December 4, 2009 through to present.
20. On information and belief, Applicant was not using the Mark in interstate commerce as of August 1997 in conjunction with jackets.
21. On information and belief, Applicant was not using the Mark in interstate commerce as of December 4, 2009 in conjunction with jackets.
22. On information and belief, Applicant has not maintained continuous use of the Mark in conjunction with jackets from either or both August 1997 and December 4, 2009 through to present.

23. On information and belief, Applicant was not using the Mark in interstate commerce as of August 1997 in conjunction with pants.
24. On information and belief, Applicant was not using the Mark in interstate commerce as of December 4, 2009 in conjunction with pants.
25. On information and belief, Applicant has not maintained continuous use of the Mark in conjunction with pants from either or both August 1997 and December 4, 2009 through to present.
26. On information and belief, Applicant was not using the Mark in interstate commerce as of August 1997 in conjunction with hats.
27. On information and belief, Applicant was not using the Mark in interstate commerce as of December 4, 2009 in conjunction with hats.
28. On information and belief, Applicant has not maintained continuous use of the Mark in conjunction with hats from either or both August 1997 and December 4, 2009 through to present.
29. Applicant maintains a website and blog at the domain derbyofsanfrancisco.com.
30. On October 24th, 2010, Applicant posted a Blog article (attached as Exhibit C) discussing his efforts to bring the jacket to market. Applicant wrote:

... I thought I would start blogging and spilling the beans on updates on this jacket. ... So Mojo Labs has just boxed up all the components of the Jacket and we are sending it to the manufactures. ... See the thing about the lining and many parts of the Jacket are that it used to be manufactured in the good ol' USA but most of the suppliers sold their equipment to overseas companies or just shut down and closed the doors. I have a list of each supplier for each part of the jacket when it was produced here but all are out of business.

So it brings us to this cross road of starting from scratch. ... Where the hell do I begin? Well we began and finished. Now it goes to where it goes and gets made!

When will it be done? Spring 2011 (I hope)

The post includes three comments from potential purchasers of the jacket.

31. On October 24th, 2010, Applicant posted another Blog article (attached as Exhibit D) discussing his efforts to bring the jacket to market. Applicant wrote:

...

Today was an important meeting for Derby.... All items were sent out to the manufactures!

Today I have a better feeling in my stomach when I say "Spring 2011"!

32. On November 23, 2010, Applicant posted a Blog Article (Exhibit E) in response to a question posed to him. He wrote:

... Im not ging to stop at the classic bomber. I have plans on a few items just to have merchandise for the website but it won't be anything cheesy. I am in the process of contacting New Era for a line of cool hats which I have very very talented artists who work for many known companies. ... I do plan on a number of T-Shirts with images. and I am in the works having Rickshaw (richshawbags.com) create a Derby messenger bag for us. I do plan on a few Letterman, herringbone ool, Hemp,Leather Derby's. ...

33. On February 7, 2011, NAIDAJY posted a Blog Article (Exhibit F) indicating a desire to buy a derby jacket and asking whether the jacket will be available by Christmas. She wrote:

... Can you give me an idea when these jackets will be available for purchase and a price range. My husband wants one for Christmas and is willing to wait, but depending on when they are coming out I may the jacket for his birthday or another celebration.

34. On February 7, 2011, Applicant posted a Blog Article (Exhibit G) in response to a question. He wrote:

We are in the process of opening right now and yes we will have the Jacket in red. When? I cannot answer that exactly!

35. In the first quarter of 2011, Applicant created a profile at Convozine.com, a website. According to the site it is “an expanding network of zines that lets people create and share content, upload images, find the new/important/awesome --- and be part of diverse, growing communities built around what they’re interested in.” Applicant published the following profile, which is also included as Exhibit I:

I'm not to sure what it is I need to put in this white rectangle with it's little black outline, but I will try and see if my ADHD won't kick in. This Zine is going to show what myself as a business owner is going thru in the trying to form and brand Derby again as well as daily business. Will I be able to accurately tell the stories which I encounter? Will I be able to translate what visions and experiences I have properly? Wow, This should be an experience. Will a 10th grade drop out be able to do this? Yeah... This should be a breeze.

Emphasis added.

36. On March 13, 2011, Applicant published an article at convozine.com entitled “Perseverance”, which is attached as Exhibit H. In the article, the Applicant wrote:

... But here are a few quotes I found in the first few chapters that I will share with you and give my "Art Of War" commentary!

...

2."Some people chose their path in life. Some people have it thrust on them. And then there are some who discover their calling almost by accident, never having looked for it"

-Over the past 15 or so years I have printed Derby shirts, stickers, and other little knick nacks. But oneday I said "I'm going to make this jacket".

... No I don't think everyone will love the products I introduce. No I don;t think everyone is happy with the progress of the jacket and the brand. No I don't think it will be perfect and the best thing since sliced bread. No I don't think about listening to people and their negative comments. No I don't think I will cater to anyone's time lines or deadlines, it will get done when it is ready, when it perfect.

37. On March 13, 2011, Applicant published an article at convozine.com entitled "The Reveal", which is attached as Exhibit J. The article pertained to Applicant's release and sale of a single messenger bag. In the article, the Applicant wrote:

... So people have been asking me when will I release this Jacket. To be honest with you I was trying to hold out until "Cinco De Mayo". That is where my heart is set. Derby is like a sand castle. It takes time to build one, it takes creativity to sculpt one, and yes, it can crumble if not done right.

...

It has a velcro lock on the front. We used the traditional lining form a Derby Jacket which has an awesome paisley which is copyrighted by the United States Copyright Center. Almost like a Nike Swoosh! So you know it is original and only made by us. We have thousands of yard of this material and will do some cool stuff with it in the future. I just dislike someone calling me a liar. I will only sell one of these. It is being announced here on Convozine which I am beginning to love.

you can bid on the bag here.....<http://tinyurl.com/derbysfbag>

We hope you enjoy this awesome one of a kind (for a few months) messenger bag!

38. On 12/07/2009, Applicant posted a thread on Yelp.com entitled "Derby of San Francisco Back in Business as of December 1st 2009 in which he discusses his plans to manufacture and sell a derby-style jacket. The entire posting is provided in Exhibit K. Applicant wrote:

As of December 1st 2009 we have begun the process of bringing back the DERBY. We will be manufacturing the original DERBY OF SAN FRANCISCO Jacket with original art, metal zippers, correct tags and leathers and the best part of it? THEY WILL ALL BE MANUFACTURED HERE IN SAN FRANCISCO! We found one of the original manufactures of the jackets from the 60's and he is very excited as well as us for bringing this jacket back. We will start with BLACK, UPS BROWN, NAVY, GREY, TAN, AND WE WILL ADD RED AND WHITED QUANTITIES. WE MAY ALSO ADD A PINK AND LIGHT BLUE FOR WOMEN. We are open to any pre-production suggestions you may have. We hope to bring a little bit of San Francisco history back to the city!

39. Applicant has posted numerous entries on Facebook concerning the derby jacket and the status in its design and manufacture and are attached here as Exhibit L.
40. In an October 8, 2010 facebook post, the Applicant wrote that the jacket is scheduled to be released in the Spring of 2011.
41. In a December 9, 2010 facebook post, Applicant indicated that he was contemplating selling his prototype 2XL black derby on ebay stating that **“it would be the first jacket to be made in over 25 years ...”** (emphasis added).
42. On February 13th, 2011 facebook post, Applicant wrote that they were getting very close and that in a few days “you will be able to reserve your derby”; he also wrote in a comment that “any reservations before the time it is released wont be honored”.
43. In an April 20, 2011 facebook post, Applicant indicated that the production on the jacket’s zipper was to be delayed at least 90 days.

44. In a June 13th, 2011 facebook post, the Applicant wrote that the design for his jacket's zipper by YKK of Japan was complete and ready for his approval. He further indicated that the jacket should be done in 45-90 days.
45. In an office action response to a geographically misdescriptive rejection made by the trademark examiner as filed on August 6, 2010 to an office action issued on March 16, 2010, Applicant's attorney wrote: "Evidence in the nature of Applicant, by counsel, respectfully disagrees with the examining attorney's geographically deceptive and primarily geographically deceptively misdescriptive matter in relation to the identified goods and/or services because they are produced in the San Francisco area." No substitute specimen was provided at this time despite the clear indication on the Specimen that the jacket was made in Korea.
46. On April 1, 2011, Opposer filed an Extension of Time to Oppose the Application.
47. On or about April 10th, Marina Lewis, Applicant's attorney, left a phone message for Opposer. Opposer sent Ms. Lewis an email on April 11, 2011 (attached as Exhibit M) indicating that the photos Applicant presented as his specimens were "fake". He also provided a link to an ebay listing by "Capt. Spalding.", the party identified on the specimen photographs.
48. In response to this notification, Applicant made no attempt to correct the problems with the specimens.
49. On May 23, 2011, Marina Lewes spoke by telephone with Opposer's attorney, Kurt Leyendecker, concerning the opposition that the Opposer intended to file. Mr.

Leyendecker indicated that Opposer had a credible accusation of fraud at least on account of the specimen photos.

50. As a result of the conversation indicated above Ms. Lewis filed substitute specimens (Attached as Exhibit N) in a post publication amendment. In the filing, Ms. Lewis explained that the original specimen was incorrect and was submitted in error.

Applicant provided a new declaration stating that the new specimens were in use in commerce at least as early as the filing date of the application.

51. The new specimen differs from the drawing presented in the Application. There are four windows in the building at the base of the left tower in the specimen and only three windows in the drawing. The mountain range behind the bridge between the left and central towers has four distinct and angular peaks; whereas, the range in the specimen only has three peaks that are much less pronounced and angular. The design and structure of the prominent central support tower differ significantly between the drawing and the new specimen: there are diagonal girders on the tower below the road surface in the specimen but there are no discernible girders in the drawing; and the lines provided in the drawing appear to be hand-drawn and are not particularly uniform in weight and width along their lengths whereas the lines in the specimen are very uniform in width along their lengths. There are nine discernible vertically-extending support cables to the left of the central support tower on the specimen; whereas, the drawing shows either thirteen or fourteen. There are ten discernable vertically-extending support cables to the right of the central support tower on the specimen; whereas, the drawing

shows fifteen. The ripples in the water differ significantly between the specimen and the drawing.

ARGUMENTS FOR REFUSING REGISTRATION:

52. Applicant committed fraud in both the filing of the Application and the prosecution thereof making multiple material false statements with the intent to deceive the Patent and Trademark office as evidenced by the facts provided. Two instances of fraud are pled with particularity below.

Applicant committed fraud on the USPTO by listing goods he was not selling under the Mark in the Application

53. In filing the Application, Applicant directly and through his filing attorney, knowingly listed shirts, sweatshirts, jackets, pants and hats as goods with which the Mark was being used in commerce at least as early as the time of filing.

54. Applicant is rather prolific in his use of the internet and social media. Despite this there is only one reference of the Applicant making any of the listed goods let alone selling them. Specifically, in the zine article referenced in paragraph 36 above, Applicant indicated that he had Derby shirts printed at some point in the past 15 years. There is no indication anywhere that these shirts were sold. Further, even if the shirts were sold, there is no evidence or indication that they were sold in interstate commerce. Opposer has been unable to undercover any

evidence whatsoever that even suggests that Applicant sold pants, jackets or hats prior to the filing of the application.

55. Considering jackets alone, statements made by the Applicant various media as described above and presented in the various exhibits clearly indicate that the Applicant had not sold a jacket prior to the filing of the Application. One of the most telling statements appeared in a facebook comment posted by Applicant as described in paragraph 41 wherein he essentially indicates that if he sold a prototype on ebay, it would be the first Derby of San Francisco jacket sold in 25 years.
56. The Application was filed by Applicant's attorney, Matthew Swyer, an experienced trademark attorney who based on a TESS system search has filed over 2800 federal trademark applications. Mr. Swyer clearly has and had knowledge concerning the legal requirements of trademark applications generally and specifically, the requirement that the Mark needed to be in use with reference to each good listed in the recitation of goods on the Application at the time of filing. Mr. Swyer no doubt informed his client of the legal requirements concerning the listing of goods in a 1(a) application.
57. Considering Applicant had knowledge of the legal requirements concerning the listing of goods in a trademark application and considering that he had not sold or was not currently selling all or some of the listed goods in commerce, Applicant intentionally deceived the Trademark Office by filing the Application with the

listed set of goods. Alternatively, if Mr. Swyer did not properly advise Applicant of the legal requirements concerning the listing of goods, he did so with reckless disregard for the law, his ethical duties to his state bar and the United States Trademark Office and his client. Since Mr. Swyer was acting as the legal agent of the Application this reckless disregard is imputed to the Applicant. This reckless disregard concerning the submission of the Application also demonstrates intent to deceive.

Applicant committed Fraud on the USPTO by providing as a specimen a jacket that Applicant had not produced or sold.

58. Based on the totality of statements made by the Applicant through various media, Applicant had not sold a jacket under the Mark prior to the filing of the Application.

59. Applicant knew that he did not manufacture and/or sell the specific jacket listed and shown in the specimen photographs. Applicant further knew that the trademarks shown in the photos were not his own but rather the marks of the original manufacturer of the Derby of San Francisco jacket.

60. Applicant actively captured the specimen photographs from a listing on ebay by another and provided those photographs to his attorney for inclusion in the Application as specimens.

61. Applicant through his attorney declared that the specimens to be of a jacket with the trademark on the label and tag.

62. Despite the foregoing knowledge, Applicant intentionally deceived the Trademark Office by filing the Application with specimens showing a jacket that he did not manufacture or sell. Alternatively, the Applicant exercised reckless disregard for the legal requirements concerning the submission of specimens in the Application. This reckless disregard concerning the submission of the Application also demonstrates intent to deceive.

WHEREFORE:

Opposer, by counsel, prays that the opposition be granted and the registration of the Application be denied.

LEYENDECKER & LEMIRE LLC,
Attorneys for the Opposer

By /Kurt P Leyendecker, Esq./
Kurt Leyendecker
Leyendecker & Lemire, LLC
Counsel for Opposer
9137 East Mineral Circle, Suite 280
Centennial, Colorado 80112
Telephone: (303)-768-0123
Facsimile: (303)-672-9200
Email: Kurt@coloradoiplaw.com

Date 06/16/11

CERTIFICATE OF SERVICE

I, Kurt P. Leyendecker, Esq., certify that on this 17th day of June, 2011, a true and correct copy of the foregoing was filed with the Trademark Trial and Appeal Board via the Electronic System for Trademark Trials and Appeals and was sent by U.S. Mail to:

Marina A. Lewis
Dergosits & Noah LLP
Three Embarcadero Center, Suite 410
San Francisco, CA 94111

Exhibit A-1

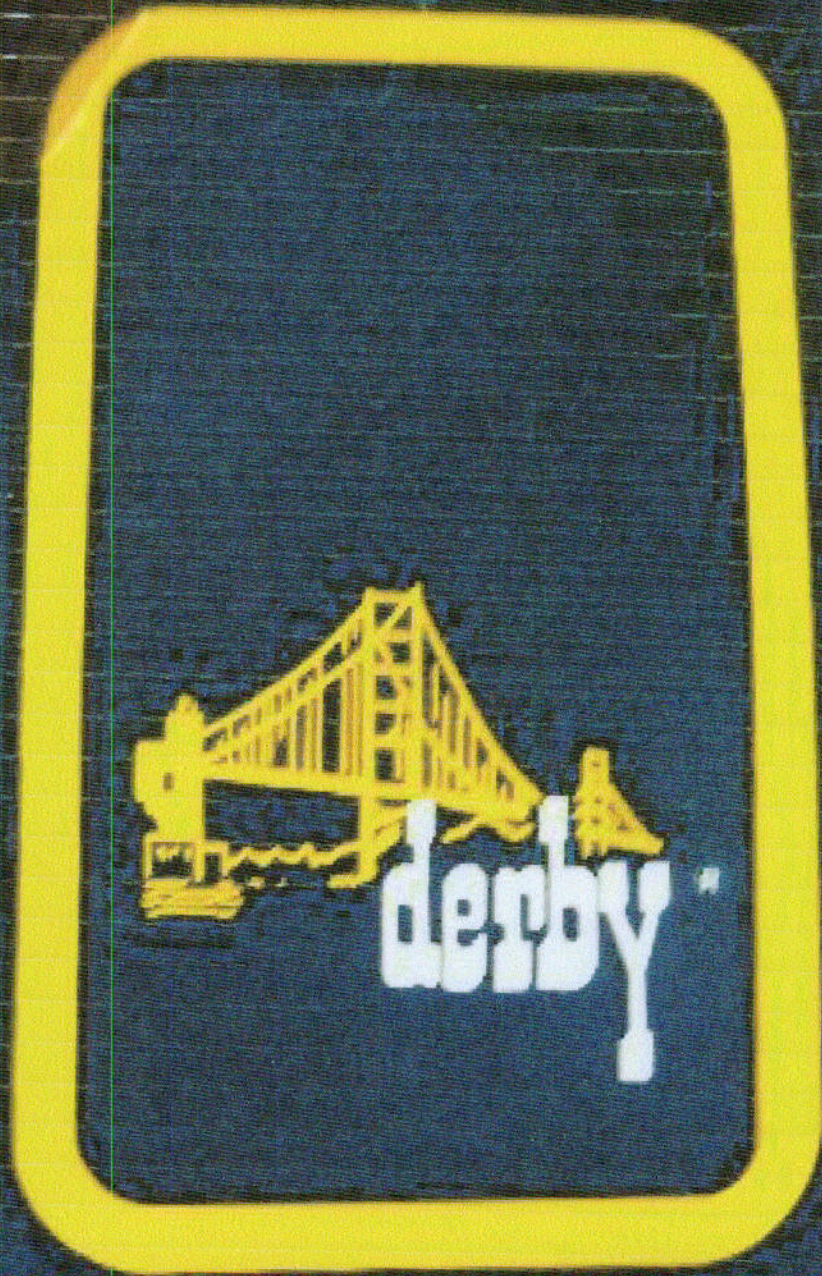


CAPT. SPALDING.

Exhibit A-2



Exhibit A-3



CAPT. SPALDING.

3



Listed in category: [Clothing, Shoes & Accessories > Vintage > Men's Vintage Clothing > 1977-89 \(Punk, New Wave, 80s\) > Coats, Jackets, Sweaters](#)

Item number: 130345539935

Derby San Francisco.Vtg.Black Jacket.M 38-40.New NOS.*



Item condition: -

Ended: Nov 24, 2009 20:11:08 PST

Bid history: 21 bids

Winning bid: **US \$173.50**

Shipping: **\$11.00** US Postal Service Priority Mail |
See all details
Estimated delivery within 5-6 business days

Returns: No Returns Accepted

Coverage: Pay with **PayPal** and your full purchase price is covered | See terms

Seller info

capt.spalding. (6376 ★) 99.3% Positive feedback

[Ask a question](#)

[Save this seller](#)

[See other items](#)

Item specifics

Size:	M	Main Color:	Black
Material:	Cotton Blend	Style:	Jacket
Condition:	NOS.New with tags		

Shipping and handling

Item location: The west, United States

Shipping to: Worldwide

Change country:



[Get Rates](#)

Shipping and handling	To	Service	Estimated delivery*
US \$11.00	United States	US Postal Service Priority Mail®	5-6 business days after seller receives cleared payment

Seller assumes all responsibility for this listing.

This page is formatted for printing and does not include all the information contained in the listing. To print all that information, you must print all the following pages by clicking on the link to them and printing them separately: listing information, seller's description, and images.

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Exhibit B-3

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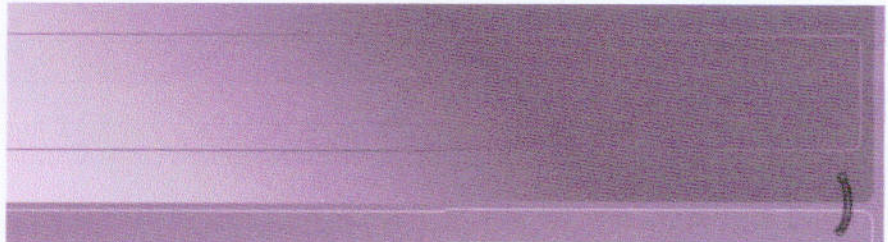


Derby San Francisco.Vtg.Black Jacket.M 38-40.New NOS.*

Item number: 130345539935

Description

Derby San
Francisco.Vtg.Black
Jacket.M 38-40.New
NOS.*



Description :





Very cool vintage jacket from Derby San Francisco.

Brand New Never worn, with the original hang tag

Tagged size M. 38-40.

But please go by the measurements below.

Exhibit B-6

More pics at the bottom of the listing.





Black cotton Polyester shell.

Black knit collar cuffs & waistband.

Lightly insulated gold & paisley lining.

A pocket each side of the lower front.

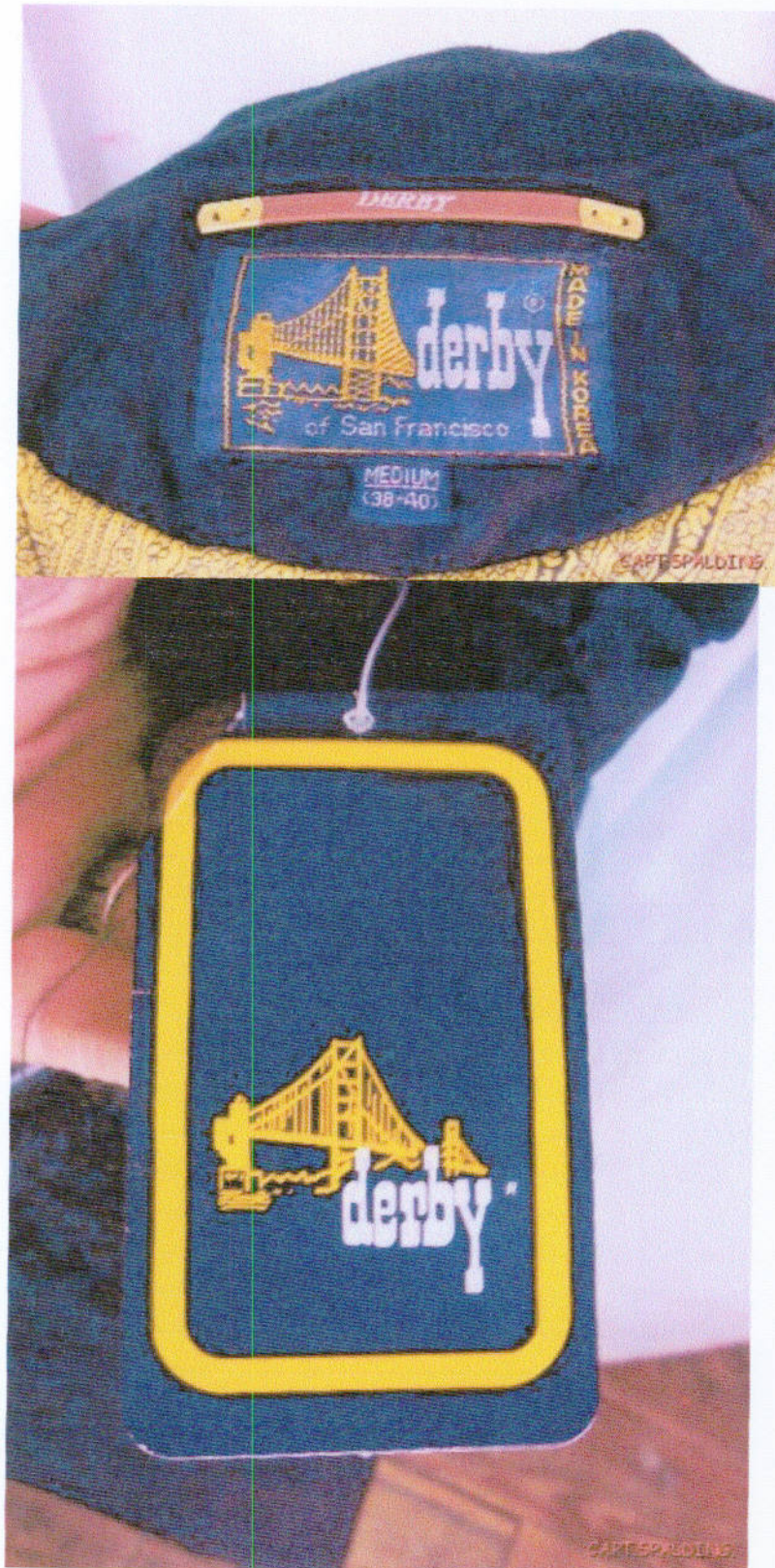
A zipper pocket behind each of them.

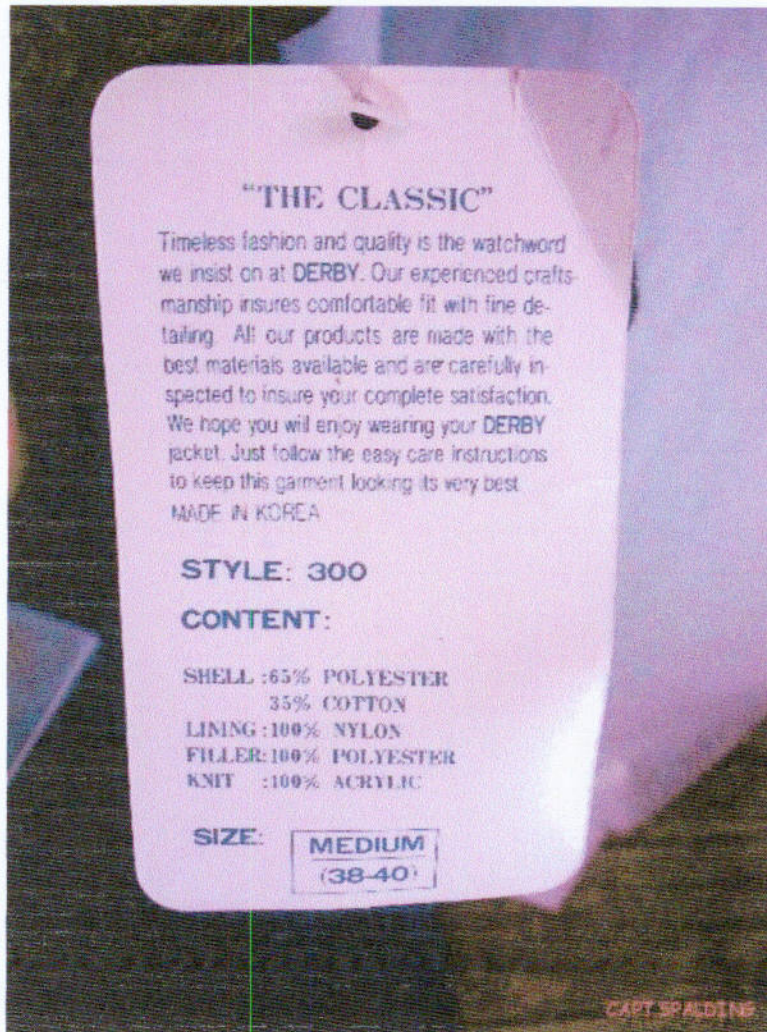
Fastens with a black zipper in front.

Storm flap fastens over it, with a button

Exhibit B-8

at the top & 2 on the bottom.





It measures 25" across the front under the arms.

It is 26" long. From the bottom of the collar to hem in back.

The sleeves are 22" from the underarm seam to the end of the cuff.

Stunning vintage Derby jacket in new unworn condition, with original hang tag.

All questions answered.

Thanks for stopping in, and please take a look at my other auctions.

Shipping is 11.00 USPS priority mail to anywhere in the US.

\$22.00 Priority mail international to Canada

\$35.00 USPS Priority Mail international to the rest of the world.

International Buyers – Please Note:

- Import duties, taxes and charges are **not included** in the item price or shipping charges. These charges are the buyer's responsibility.
- Please check with your country's customs office to determine what

these additional costs will be prior to bidding/buying.

- These charges are normally collected by the delivering freight (shipping) company or when you pick the item up – do not confuse them for additional shipping charges.
- We do not mark merchandise values below value or mark items as "gifts" – US and International government regulations prohibit such behavior

Items won within a 7 day period may be combined for cheaper shipping.

Returns only accepted if the item is grossly misrepresented.

Shipping :

We try to ship the day after payment is received.

We do not ship on the weekend.

All domestic and international shipping is by USPS priority mail.

Domestic shipping includes delivery confirmation.

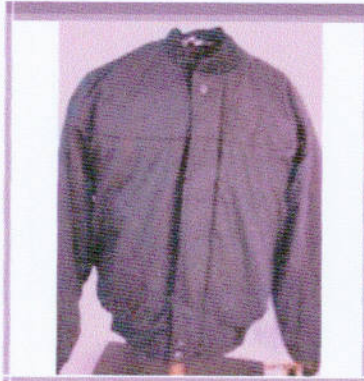
Insurance is optional.

Payment :

Payment is expected within 7 days of auctions end.
 Paypal Only.
 California residents pay
 %8.5 Sales tax.



[click to Enlarge](#)



[click to Enlarge](#)



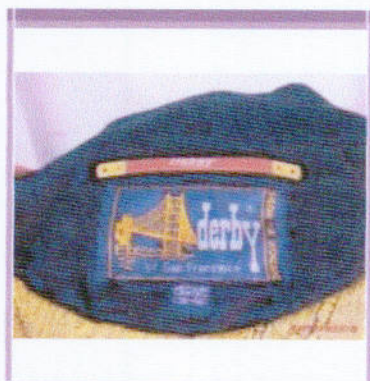
[click to Enlarge](#)



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00000141

Seller assumes all responsibility for this listing.

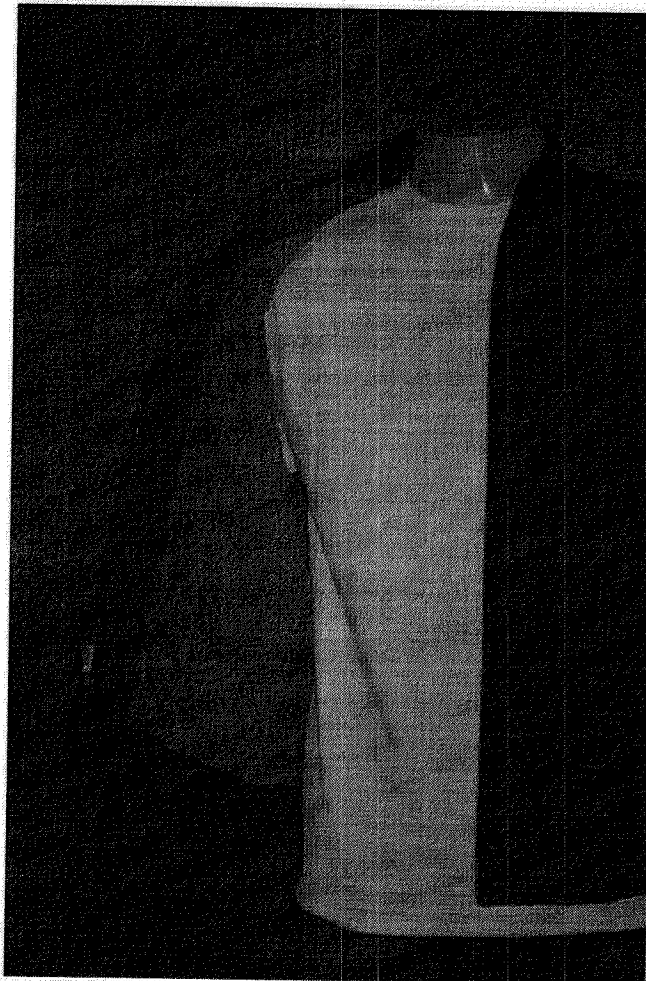
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Exhibit D-1

OCTOBER 24TH, 2010

DERBYSF



People I know say I need to be a little more "Social" when it comes to Derby. After hearing it many times already I thought I would start blogging and spilling the beans on updates on this jacket.

So Mojo Labs has just boxed up all the components of the Jacket and we are sending it to the manufactures. I swear the hardest thing ever was the lining. The design alone for the artist (Brandon Murio) was a real pain I think it took him over 40 hours to get it right. It kinda looks like a city view from Google Maps. Well it is done now. See the thing about the lining and many parts of the Jacket are that it used to be manufactured in the good ol' USA but most of the suppliers sold their equipment to overseas companies or just shut down and closed the doors. I have a list of each supplier for each part of the jacket when it was produced here but all are out of business.

So it brings us to this cross road of starting from scratch. The hang strap on the inside of the jacket was a real pain. It wasn't even leather but a weird plastic coated cardboard. Where the hell do I begin? Well we began and finished. Now it goes to where it goes and gets made!

When will it be done? Spring 2011 (I hope)

@DERBYSF

Today I get an email which shows me front and back of the NEW ZIPPER from YKK Japan. I put my approval stamp on... <http://fb.me/Zzj2ELdn>

JOIN THIS PAGE AND SUPPORT AXIS FIGHT AGAINST CANCER <http://fb.me/13im55b1>

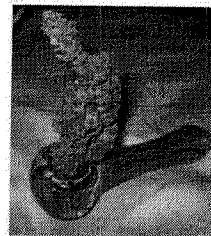
Today YKK started the mold for the YKK Zipper... Jesus I am so relieved. I want to thanks all of you for your... <http://fb.me/13h38fpME>

"Fuck Yo Derby"
ALFRESHKO June 4, 2011
<http://fb.me/10eLRKRcs>

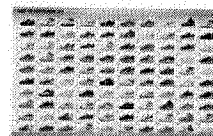
SUPER \$500.00 Contest Ok let's make this a little interesting... \$500.00 to the best photo of someone in a Derby... <http://fb.me/Pp8ipCyt>

The Derby Jacket was a Fashion icon from San Francisco in the 70' and 80's, Derby Of San Francisco made several jackets in this time but there is the one out that stands out. "The Original" is a cut which has transformed worldwide to be recognized as a "Derby Jacket". This blog is just a day to day of our company and our views and options. We will talk about many different things here and always update this blog with current activity of the company's progress. We have been around since 1997 reproducing Derby Of San Francisco items but now we have the financing for the "Derby Jacket" which made this company so famous. Hope you all enjoy!

LIKES



Pink kush



The good ol' days. [Thanks to Brad for the link.]



Alignment
by Arndt Laude

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Exhibit D-2

3 COMMENTS

SF GIANTS DERBY JACKET DERBY OF SAN FRANCISCO
COOL JACKET WINTER COAT FASHION CLOTHING SAN FRANCISCO

 2 people liked this.

 DISQUS

ADD NEW COMMENT


Type your comment here

+ Image

Post as ...


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Sort by Popular now ☐ Subscribe by email ☐ Subscribe by RSS

 Bill 1 month ago

Are we any closer to getting a Derby? I had several in the early 60's it would be greatly treasured.

1 person liked this.  

 Buddha 7 months ago

Man, I cant wait. I've been searching for a real derby jacket for years. can I reserve one now?

1 person liked this.  

 Aiastrhegreat 7 months ago

heck, just use leather for the strap. Can't wait for my derby!

1 person liked this.  

HOME SUBMIT ASK ME ANYTHING DERBY SF FACEBOOK

HOME                                   

© Copyright DERBY OF SAN FRANCISCO Design: SLEEPOVER Power: TUMBLR

pe = 'text/javascript'; ga.async = true; ga.src = ('https:' == document.location.protocol ? 'https://ssl' : 'http://www') + 'google-analytics.com/ga.js'; var s = document.getElementsByTagName('script')[0]; s.parentNode.insertBefore(ga, s);})();

Exhibit F

derby

derby

Derby Of San Francisco

ARCHIVES SUBMIT ASK ME ANYTHING DERBY SF FACEBOOK HOME

NOVEMBER 23RD, 2010

DERBYSF

Are you planning to stop at the classic bomber? I've got an old Derby camel coat/fake fur collar that is begging to be brought back on the scene. In any case, way to throw some passion behind a re-launch!

Thanks man. I had surgery a few weeks ago and have not been around to answer your message. Im not ging to stop at the classic bomber. I have plans on a few items just to have merchandise for the website but it won't be anything cheesy. I am in the process of contacting New Era for a line of cool hats which I have very very talented artists who work for many known companies. Well let's not say work but their work is commissioned.I do plan on a number of T-Shirts with images, and I am in the works having Rickshaw (richshawbags.com) create a Derby messenger bag for us. I do plan on a few Letterman, herringbone ool, Hemp,Leather Derby's. All the same cut just different materials.Except the Letterman of course. Thanks for the feed back!

1 COMMENT

Like

DISQUE

ADD NEW COMMENT

Type your comment here.

Image

Post as ...

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MChaney1

5 months ago

Black leather derby???? I think I may faint....

Like

Reply

@DERBYSF

Today I get an email which shows me front and back of the NEW ZIPPER from YKK Japan. I put my approval stamp on... <http://fb.me/Zzj2ELdn>

JOIN THIS PAGE AND SUPPORT AXIS FIGHT AGAINST CANCER !!!!!!!!!!! <http://fb.me/13lm55b1>

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"Fuck Yo Derby" ALFRESHKO June 4,2011 <http://fb.me/10eLRKRcs>

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LIKES



Pink kush



The good ol' days. [Thanks to Brad for the link.]



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Derby Of San Francisco

ARCHIVES

SUBMIT

ASK ME ANYTHING

DERBY SF FACEBOOK

HOME

FEBRUARY 7TH, 2011

NAIDAJJOY

derby jacket

Can you give me an idea when these jackets will be available for purchase and a price range. My husband wants one for Christmas and is willing to wait, but depending on when they are coming out I may the jacket for his birthday or another celebration.

1 COMMENT



ADD NEW COMMENT

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Yamama 1 month ago

Are these jackets going to be ready any time this decade?

Like Reply

@DERBYSF

Today I get an email which shows me front and back of the NEW ZIPPER from YKK Japan. I put my approval stamp on... <http://fb.me/1Zzj2ELdn>

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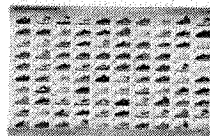
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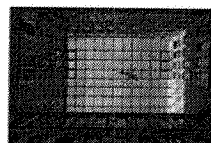
LIKES



Pink kush



The good of days. [Thanks to Brad for the link.]



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by Arndt Laude

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HOME

FEBRUARY 7TH, 2011

DERBYSF

@DERBYSF

when is your store going to open and are you selling the color red???????

We are in the process of opening right now and yes we will have the Jacket in red. When? I cannot answer that exactly!

1 COMMENT



ADD NEW COMMENT

Type your comment here.

Image

Post as ...

SHOWING 1 COMMENT

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Carlos 2 months ago

Are you going to have an actual store location or will you have the jackets in certain stores? If you will have a store where will it be or where will they be sold?

Like Reply

Today I get an email which shows me front and back of the NEW ZIPPER from YKK Japan. I put my approval stamp on... <http://fb.me/Zzj2ELdn>

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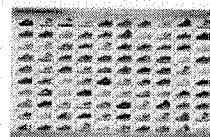
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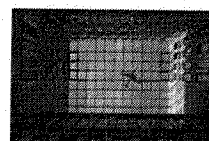
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DERBY OF SAN FRANCISCO

by [Victor Suarez](#)

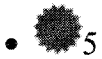
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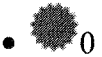
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ORIGINALITY



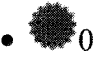
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INSPIRATION



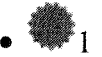
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1

EDUCATION



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AESTHETICS

Like 24

5

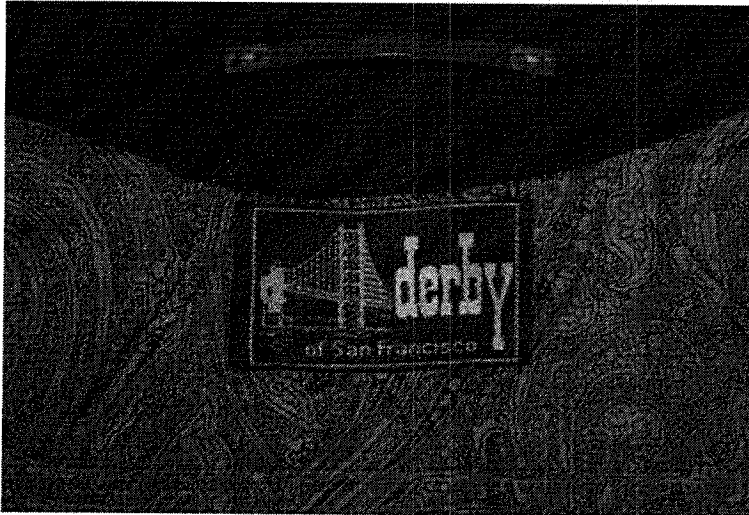
"Perseverance"

by [Victor Suarez](#)

March 13, 2011 | 1043 views | 18 comments

Exhibit H-2

[PREV](#) | [NEXT](#)



Im not a writer never claimed to be. I sit here listing to Pandora and "Stairway To Heaven" came on and for some reason I just felt like inviting people into how I am thinking. Let you guys in to my world to see a small piece of what I am doing with Derby and why I am doing it. Yesterday I got home at about 3:45 pm, a little earlier than I am used to. I sat there doing whatever a human does at that time of the day and for some reason at about 7 pm I felt as if I were wasting time. As if I had something better to do. Sort of felt like when your parents tell you TV is a waste of time. I just wanted to get out of the house and do something. So I got into my truck and drove and drove and drove until I stopped at Barnes & Noble's. Don't know why but I felt like buying a book. Would I read it? I have about 20 to 30 books on my shelf that are untouched but I told myself "I would read this one". Yeah right, just as I am going to finally go to the gym tomorrow. Bull Shit! So I go in , down the escalator and go to the business section. Then I head to the Marketing section. I say if you are a true marketer you either have "it" or don't. I head on over to the kid's section where I tell myself I am going to start reading my kids bedtime stories but I had a realization a 2 year old and 3 year old would tear them up quicker than 2 little pitbulls that have not eaten for a few days. Damn, what am I going to buy?

(Now for all you english pros and writers" Sorry if I dont place paragraphs, commas, periods and all that crap where they are supposed to be... I only have a 10th grade education. If your one of the "cool guys" then you "Wore a Derby, and you will get the damn bad english")

So yeah.... I just had a self concience moment there.

Ok, so I walk around and and see the travel section. "Im going to go on a trip" BS... So I head over to the photography section. "I'm going to start using my Canon 5D Mark II" BS..... I head over to the cooking section... "I'm going to start cooking better" BS....I then walk back to the kid's section realizing I need to be a good dad and read for my kid's but on the way over a picture of Steve Jobs is in the corner of my eye. "Steve Jobs is in the Marketing section!"...

See I have had this attitude with Derby that I wanted to do things "Apple Like" which to me is "Show Nothing, Give Everything". That was my thought before I cracked open this book. It was

Exhibit H-3

much much deeper than what I only saw because I had no inside to Apple. Who the hell was I to actually get to meet someone who would share the dark secrets. Ok so I buy the book hop in the Tundra and drive home.

When I walked in my house the door made that loud "Beep" that ADT had on there home security systems and it woke my wife. She was a little pissed but asked me if I found anything good I tell he "NO". hehe. So I get into bed and realized it was to damn dark to read. DAMN!!! But I have an iPad and downloaded the book for \$12.00. Oh well, I wanted to read this thing. So I start to read and I can't see. I forgot, I wear glasses. Every time I read I am in denial that I need them and think my eyes will heal magically. So I start to read the book which I won't give the title to because it is going to be my secret little weapon for all of you consumers!

Now on with the good stuff.....

I start to read this book which was written by Steve Jobs right hand (or left hand,since he was left handed). Ohhhhhh this is good. So I get to reading a few chapters and then magically find the "Highlight" option. DAMN! So I begin to read the book over again and highlight a few important things that I already thought of and it hit me "This man thinks the same way". "Yes" I say. "I think like Steve Jobs, I think like Steve Jobs" NOT..... But here are a few quotes I found in the first few chapters that I will share with you and give my "Art Of War" commentary!

1. "Steve likes to surprise people by not sharing information until the last minute, maybe as a way of keeping you a little bit off balance and a little more under his control"

- Wow.... I like that one. It makes sense to me. Give the public nothing. Not a squeak about anything. Keep it to yourself. A magician is only cool until you know his secret then he is nothing. Give people the "Zappos" wow factor.

2. "Some people chose their path in life. Some people have it thrust on them. And then there are some who discover their calling almost by accident, never having looked for it"

-Over the past 15 or so years I have printed Derby shirts, stickers, and other little knick nacks. But one day I said "I'm going to make this jacket".

3. "...nearly irrational focus"

- I can't explain this one. But I know I have that. If you suffer from irrational focus "Congrats", "Cheers" and let's drink to that super crazy focus you have.

4. ".... make such a breakthrough that ""it will dent the universe""....."

- See Derby is not really a "Breakthrough" but I know it is a very important brand and jacket. I understand that a person puts one on again it will be a rush of memories almost as if they were seconds away from death and all their memories flashed before their eyes. I understand that few things in your life will do this to you. It will bring back memories as if you found your kid's baby shoes in a box in the garage, or like finding old letters from your first girlfriend in a book. Stuff like

Exhibit H-4

that is important. Sometimes I feel like i have this great responsibility as the keeper of people's "Awesome Memories"

5"....you won't get people working for you fired up with enthusiasm unless you're fires up yourself....and you let everyone know it"

- For a while I thought I was crazy, cult like with the enthusiasm I displayed. But I look at the people I am working with and realize the people helping me with this are some serious players who are involved with this and they could be doing other things with their lives. They trust me. I know they do. All because of the enthusiasm I have shown and guess what? They also have this installed in them now for this project. Am I wrong, Douglas, Dug, Brandon, Mike, Jeannine, Kimmie, Ryan, Eric, Al, Robin, and to anyone I am forgetting?

6. "Steve Jobs doesn't hear the word "no" and is deaf to "We Can't" or You May Not"

-Need I really explain this one? Read the title of the story.

7.".... found that he "seems to introduce tension, politics and hassles" RIGHT: High achievers and people with a vision are sometimes short on social skills, or just don't care about politeness or being tactful"

-Sometimes during the process I see this happening. My sentences get shorter. I stop saying "Hello" when I answer the phone or just get to the point in a conversation and it is rude. But I feel like when working with someone they know me and we can save all of the above for the bar or when we are on the deck hanging out. Guess what? I never stop working so there is no fun time. I sometimes feel like I am missing out on my kids and need to "Stop and smell the roses". One day I hope to do so but if you are one of the people in this story then you will understand that "Masterminds" don't ever rest. Our minds keep going like a busted washer on the final spin cycle that will never stop. Our happiness in achieving an unreachable goal which we always escalate to a higher point but as we climb higher great things are accomplished. I'll rest when i'm dead. Thanks.

8." The vision Trip Hawkins talked about came from Steve's focus, but even more from his passion. I loved what Steve would say about this, setting for himself and everyone around him of doing each task the very best you can "because you only get to do a limited number of things in your life""

-There are few times in your life you get to something cool. This is one of them for me. I will enjoy it and do the best damn job I can. Sometimes I lose focus on the project. It isn't that I get distracted I just get frustrated like a mouse in a maze. But I always find a way and "drive on". So I broke things down in small steps and try to tackle each one. Almost like levels in a video game. But this one is like Tetris level 1,254 and the blocks are droppin fast baby.

9."I could be doing a lot of other things with my life" he said. "But the Macintosh is going to change the world. I believe that, and I've chosen people for the team who believe it, too"

-Derby is not going to "Change the world" unless the San Francisco Bay Area is it;s own planet. But why not try? I'll give it my best damn shot. When I started this process and during it I tried to choose

Exhibit H-5

the best people for it. Guess what? They all came to be by fate. I never had a list. I just went on along and stopped and made the best add on's I could have asked for. I know Derby has the potential to do something great. I know with other items of clothing and if I cater to certain demographics and harness the attention of consumers in each one it will be something special.

10."....You have to be burning with "an idea, or a problem, or a wrong that you want to right" If you're not passionate enough from the start, you'll never stick it out...."

-Anyone that knows me knows for a fact that I have a million ideas. They are all good and I show a mini burst of passion but I won't marry every idea I have. But once I marry an idea I stick to it and get it done. In the streets we call it "Selling a dream" I call it brainstorming. Maybe I need to share these ideas with like minded people and be careful who I share them with or I will look as if I am crying wolf or just plain insane.

11."....absolute, fundamental need- to focus in on a single aspect or detail, clearing everything from his vision and his mind until he arrived at the decision he was looking for"

- For Derby I have paid attention to every single detail. The zipper must be a good vintage one. The lining must be the same color. The print paisley must be spot on to the "T". The ribbing must start and finish the same with the correct spacing between each rib. The collar rib must not be flimsy must be stitched exactly the same. The label must be the exact color blue. The stitching in the label must have the same rise and feel thick as if it were the same. The zipper must have the same leather piece on it, the same thickness the same length. The quilting must have the same space in the stitch and the correct number of stitches in succession. The quilting must be the same thickness. The shoulders must sit the same and not have that football pad look to it. The fabric in the pocket must be the same. It must be soft not too bouncy or thick or too thin. The buttons must be the same size with the same marble and curve to it. The jacket must not be too puffy or thin when it is on. Man I can go on and on.... Put it like this, any product that is released to the public must go thru 30 changes and has to be perfect because I am basically making it for myself. The Ultimate Consumer. I just hope you guys like what I am making for myself. From shoes, to jeans, to hats, to wallets, to belts, to work shirts. I have the Ultimate say in the end and I am a "picky bastard".

12."He first applies his vision to where he wants to go, then to the vision of the product-how it will work, how it will fit into the natural ways of life, how people use things."

- I will give one example. There is a very popular work shirt. I bought them. Hell I wear them. Guess what the problem is. They are too short in length, too stiff when bought. The average man hates doing laundry so they won't wash it right away. So I will make it longer, I will make it out of a softer material. I will make it better for the "working man". Period.

Well that is a brief summary of what I am thinking. No I am not crazy. No I don't think I will change the world. No I don't think I am Steve Jobs. No I don't think everyone will love the products I introduce. No I don't think everyone is happy with the progress of the jacket and the brand. No I don't think it will be perfect and the best thing since sliced bread. No I don't think about listening to people and their negative comments. No I don't think I will cater to anyone's time lines or deadlines, it will get done when it is ready, when it perfect. No I don't think I am obsessed with this project.

Exhibit H-6

I think different that's all that matters.
Don't you think?

Become a Fan -

<http://www.facebook.com/pages/DerbyOfSanFrancisco/149606055079624>

Victor Suarez
CEO
Derby Of San Francisco
Saturday March 11, 2011 7:42 PM

Spell Check anyone? :)

Also appears in:

Demand

edwin balli 0

Good job bro very well put good things come to those who wait. *ed*
03.13.11 •

Daniel Vega 0

So basicly what your saying there is no date for the derbys, was up wit dat brrru! cmon man you killing me.thats kool, if i gotta wait gotta wait then.
03.13.11 •

Victor Suarez 1

it's not that I'm saying that. I'm saying I'm on the right direction!!
03.13.11 •

Douglas Gorney 0

Victor — thanks for stepping up and posting this! Love getting an insight into the process, into the birth of a brand. It'll come when it's right, and your focus will ensure that it is just right.

I went ahead and put this in the Business section because it has a lot more to do with Steve Jobs and other marketing visionaries than it does Baggage Claim.
03.13.11 •

*comment deleted*03.14.11

*comment deleted*03.14.11

*comment deleted*03.14.11

*comment deleted*03.14.11

Exhibit H-7

*comment deleted*03.15.11

Antwan Wills 1

Victor please ignore any bad comments from the peanut gallery. I read your posting last night here and I would like you to know that I work for a V.C. here in Silicon Valley. Our firm has worked with some very well renowned internet start up companies. I will private message you and give you all of our information. If the numbers are right and your business plan is solid we would love to fund this project you are working on. The last people we funded just sold for \$74 Million to another fashion brand.

I don't like mean people.

The funding is no problem.

Contact me

Antwan

03.15.11 •

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Contact me

Antwan

03.15.11 •

*comment deleted*03.15.11


*comment deleted*03.16.11

Victor Suarez 0

Too bad you don't have the same set of balls Captain Spaulding has.

03.16.11 •

reply to convo

Sign in to comment or use  Twitter login

Victor Suarez

CEO, Derby Of San Francisco

Location:

San Francisco, California

About:


I'm not to sure what it is I need to put in this white rectangle with it's little black outline, but I will try and see if my ADHD won't kick in. This Zine is going to show what myself as a business owner is

Exhibit H-8

going thru in the trying to form and brand Derby again as well as daily business. Will I be able to accurately tell the stories which I encounter? Will I be able to translate what visions and experiences I have properly? Wow, This should be an experience. Will a 10th grade drop out be able to do this? Yeah... This should be a breeze.

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Rare Find: 2

Humor: 1

Aesthetics: 8

submitting ...

CONVOZINE LOGIN

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Exhibit I

C



DERBY OF SAN FRANCISCO

by Victor Suarez

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AWARDS: 19

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7

"The Reveal"

by Victor Suarez

March 15, 2011 | 1941 views | 1 comment

PREV | NEXT



Victor Suarez

CEO, Derby Of San Francisco

Location:

San Francisco, California

About:

I'm not to sure what it is I need to put in this white rectangle with it's little black outline, but I will try and see if my ADHD won't kick in. This Zine is going to show what myself as a business owner is going thru in the trying to form and brand Derby again as well as daily business. Will I be able to accurately tell the stories which I encounter? Will I be able to translate what visions and experiences I have properly? Wow, This should be an experience. Will a 10th grade drop out be able to do this? Yeah... This should be a breeze

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Exhibit 5-1



DERBY OF SAN FRANCISCO

by Victor Suarez
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search

AWARDS: 19

Like 53

Tweet 7

"The Reveal"

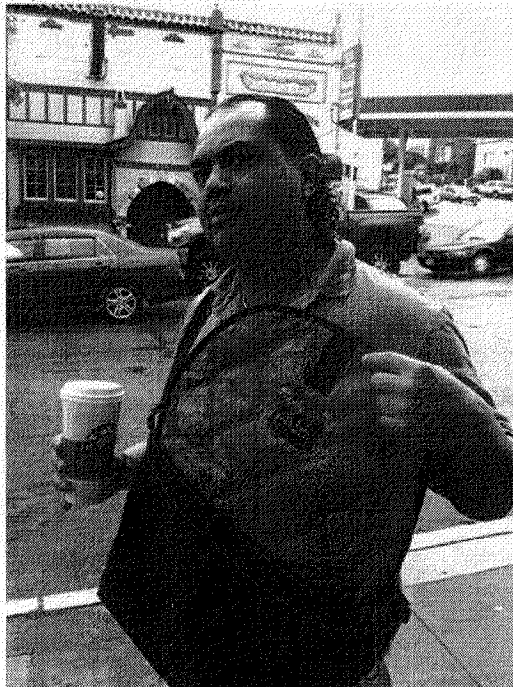
by Victor Suarez

March 15, 2011 | 1941 views | 1 comment

PREV | NEXT



So people have been asking me when will I release this Jacket. To be honest with you I was trying to hold out until "Cinco De Mayo". That is where my heart is set. Derby is like a sand castle. It takes time to build one, it takes creativity to sculpt one, and yes, it can crumble if not done right. So last night I was harassed by a "Derby Stalker" my wife says about them. Wanting product. So I went to the office and looked at all the items I have had made for this brand and found this awesome item. Last year I walked into Rickshaw Bagworks and had them create a messenger bag. I figured I would make a smaller one since everyone is carrying around an iPad. Hell I even have one. I made this product for me when I carry my iPad around it helps.



Victor Suarez
CEO, Derby Of San Francisco

Location:
San Francisco, California

About:

I'm not to sure what it is I need to put in this white rectangle with it's little black outline, but I will try and see if my ADHD won't kick in. This Zine is going to show what myself as a business owner is going thru in the trying to form and brand Derby again as well as daily business. Will I be able to accurately tell the stories which I encounter? Will I be able to translate what visions and experiences I have properly? Wow, This should be an experience. Will a 10th grade drop out be able to do this? Yeah... This should be a breeze.

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- "The Reveal" 1942
- "Perseverance" 1044

STATS

Followers: 5
Following: 0
Convos: 2
Avg Views: 1493.0
Avg Comments 9.5

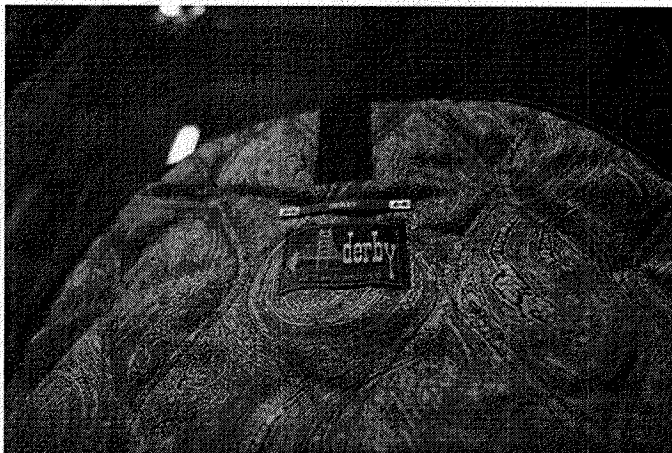
TOTAL AWARDS: 29

Originality: 10
Inspiration: 7
Education: 1
Rare Find: 2
Humor: 1
Aesthetics: 8

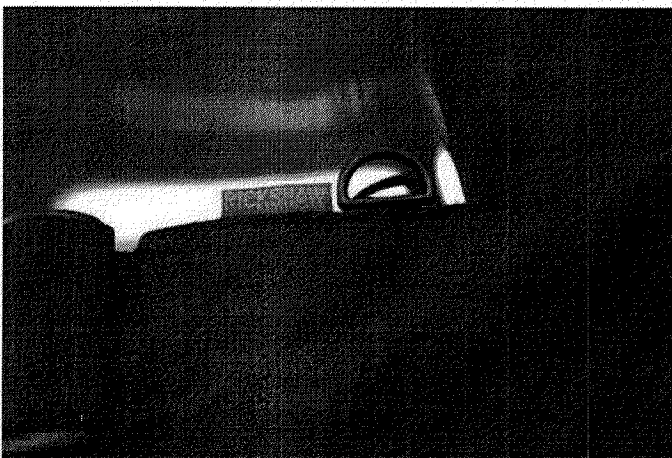
Exhibit J-2

Now I want to take a second and say sorry to a close friend of mine above.

"TWICK ICP" was promised the first one that I release. He will get his second. I just have not seen him yet to give this to him. Twick is a well known Frisco Street Artist. I know why he wants one, to stuff it full of Montana Spray Cans and crush some wall that is slippin' naked. I've been with this dude when he paints and he gets "crazy focused". It awesome.



Well here it is. A Derby Of San Francisco messenger bag which is for sale on eBay right now.... I just listed it seconds ago. 25% of the sale will go to the Japan Earthquake and Tsunami Relief Fund - a GlobalGiving Project. We have these made and were going to release them in the fall.



It has a nice sleek design for an iPad or iPad 2. It consists of a heavy duty strap which is adjustable and fits almost anyone. I think Andre The Giant would have troubles wearing this one, but hey, we tried.



It has a velcro lock on the front. We used the traditional lining from a Derby Jacket which has an awesome paisley which is copyrighted by the United States Copyright Center. Almost like a Nike Swoosh! So you know it is original and only made by us. We have thousands of yard of this material and will do some cool stuff with it in the future. I just dislike someone calling me a liar. I will only sell one of these. It is being announced here on Convovine which I am beginning to love.

You can bid on the bag here.....
<http://tinyurl.com/derbysfbag>

We hope you enjoy this awesome one of a kind (for a few months) messenger bag!

For any questions you can contact us at 1-866-DERBYSF

Thanks so much,

Victor Suarez

CEO

Derby Of San Francisco

Also appears in:

Nefarious Laundry

Douglas Gomey 0

Way to turn a problem into an opportunity. It's a beauty, right down to the leather locker loop. Hope it sells high so a nice chunk goes to the earthquake and tsunami relief fund.

03.15.11*

SIGN IN TO COMMENT OR USE  TWITTER LOGIN

Exhibit K-1

http://www.yelp.com/topic/san-francisco-derby-of-san-francisco-back-in-business-as-of-december-1st-2009

QuickStores Search All On eBay On Amazon On Shopping.com

Hi Kurt, Yelp is using Facebook to personalize your experience. Learn More No Thanks

Now in the UK! Friends' Activity Sign Up for Yelp Log In

Search for (e.g. taco, cheap dinner, Mac's)

Near (Address, Neighborhood, City, State or Zip)

San Francisco, CA

Search

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All Conversations

a moment ago

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Events

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Food

3 minutes ago

Shopping & Products

6 minutes ago

Travel

one minute ago

Relationships & Dating

15 minutes ago

Humor & Offbeat

2 hours ago

Entertainment & Pop Culture

one hour ago

Sports

10 minutes ago

News & Politics

14 minutes ago

Family & Parenting

7 minutes ago

Yelper Shout-Outs

6/13/2011

Site Questions & Updates

46 minutes ago

Other

a moment ago

Recent Conversations

LeBron James - Like?

A moment ago

Las Vegas

One minute ago

Safest place to travel in Mexico

2 minutes ago

Yelp sunset showdown, who hopes to be there?

3 minutes ago

Vitamins

3 minutes ago

"Capranio admits that she slapped the doctor -- but insists that the doctor needed slapping"

6 minutes ago

Today's Self-Involvement Fluff Thread: Whom in your family do you look like?

7 minutes ago

Campfire meals

8 minutes ago

Shutting at the club!

10 minutes ago

What did Weiner do wrong?

14 minutes ago

Chicanos

16 minutes ago

\$1.50 Extra for a Big Mac..... (If you're black)

21 minutes ago

Spa services in Cabo San Lucas, MX

21 minutes ago

I love Asian Guys...

28 minutes ago

When is it OK to spank your child?

30 minutes ago

Hi yelpers from palm springs! It was hot yesterday!

DERBY OF SAN FRANCISCO BACK IN BUSINESS AS OF DECEMBER 1st 2009

Category: Shopping & Products

Get email updates about this conversation

Page Bottom 1

Victor S. says:

12/7/2009

As of December 1st 2009 we have begun the process of bringing back the DERBY. We will be manufacturing the original DERBY OF SAN FRANCISCO Jacket with original art, metal zippers, correct tags and leathers and the best part of it? THEY WILL ALL BE MANUFACTURED HERE IN SAN FRANCISCO!

We found one of the original manufactures of the jackets from the 60's and he is very excited as well as us for bringing this jacket back.

We will start with BLACK, UPS BROWN, NAVY, GREY, TAN, AND WE WILL ADD RED AND WHITED IN LIMITED QUANTITIES. WE MAY ALSO ADD A PINK AND LIGHT BLUE FOR WOMEN.

We are open to any pre-production suggestions you may have.

We hope to bring a little bit of San Francisco history back to the city!

Sean O. says:

1/13/2010

Derbys Jackets Rock...

When will they do on sale?

Show us promo pictures of the derbys you have?

what stores.

a derby jacket release...party

Advertising...who is doing it, and how do you get in on it

a lot of questions...and business license information, location in san francisco?

thanks

Patrick "I hate twitter and everybody who does it" B. says:

1/13/2010

Dustin O is going to be pissed off if he see's this.

Geoffrey "bobbins and weavin" N. says:

1/13/2010

Do you have the gold paisley linings? Cause if you don't, then it means it's fake. At least that's what they told me in junior high school.

Rebekah T. says:

1/13/2010

A derby release party, LOL! hahaha.

ellen "gina" L. says:

1/23/2010

I had a navy blue derby with paisley gold lining, and just found out that the person I lent it to, lost it. I'm devastated, I loved that coat! It also has/had such sentimental feelings attached to it. It represented my youth in SF and the coolness factor of having one of those coats. All my friends had one or more... I'm wondering if any of these claims about the originals being available are true. If anyone knows the answer to that, please comment... thanks

jose "Bay 510" c. says:

1/23/2010

look if they really bring derbys backi will be the first to buy one ...

John "Shadowrider" H. says:

1/23/2010

Like the troll sad story..... fail, just like the jackets.

jose "Bay 510" c. says:

1/23/2010

derbys are for chicano cholo gagsters lol ...

Al "pretend I'm not a total bitchin rockstar from Mars" D. says:

1/24/2010

"correct tags", feh

makes it sound wimpy

Fuck Face P. says:

1/24/2010

That's it! I'm having a Derby Jacket UYE at Zeitgeist

Renato L. says:

1/24/2010

skinny jeans and derby jackets...

Exhibit K2

10 minutes ago

\$1.50 Extra for a Big-Mac..... (If you're black)
21 minutes ago

Spa services in Cabo San Lucas, MX
21 minutes ago

I love Asian Guys...
20 minutes ago

When is it OK to spank your child?
30 minutes ago

Hi yelpers from palm springs! It was hot yesterday!
32 minutes ago

Words that make you (feel) smart
43 minutes ago

The "official" things that aren't a priority in my life anymore thread
46 minutes ago

Question about check-ins & "Tell my Yelp friends"
46 minutes ago

BBQ Lovers: Your Chance to Win \$20,000
52 minutes ago

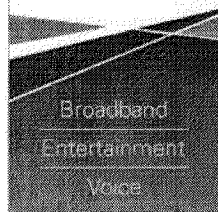
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Qwest is becoming CenturyLink.



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11
9



Al "pretend I'm not a total bitchin rockstar from Mars" D. says:
"correct tags", feh
makes it sound wimpy

1/24/2010



Fuck Face P. says:
That's it! I'm having a Derby Jacket UYE at Zeitgeist

1/24/2010

0
7



Renato L. says:
skinny jeans and derby jackets...

1/24/2010

240
54



Lance "Lancehole" G. says:
Here's the official Derby jacket UYE poster.
<http://www.actwin.com/>

1/24/2010



Fuck Face P. says:
Lance, were you looking for quality cat pics when you came across that?

1/24/2010

240
54



Lance "Lancehole" G. says:
<http://www.youtube.com/>

1/24/2010

3
12



Lorel R. says:
Derby's, Ben Davis & Steel toes = Sunset boys (W.P.O.D)
(when I was growing up in the 80's!) The Good ol days! Sigh.....

1/25/2010



Sean O. says:
Derby Jackets Rock.
Ben Davis Pants Rock
Sissy Men Suck.

1/26/2010



Fuck Face P. says:
combat boots rock too

1/26/2010

3
2



Robin n. says:
Checkout the fan page on Facebook
<http://www.facebook.co...>

2/15/2010



Fuck Face P. says:
I already joined!

2/15/2010

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This conversation is older than 2 months and has been closed to new posts.

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Countries

Austria
Canada
France
Germany
Ireland
Spain
The Netherlands
United Kingdom
United States

Language

English ▾

1-7
+9.4x3

Answer: The jacket... Mozilla Firefox
File Edit View History Bookmarks Tools Help +
DerbySF (DerbySF) p... Answer: The jacket... DerbyOfSanFrancisco... DerbySF (DerbySF) p... DerbyOfSanFrancisco... DerbyOfSanFrancisco... http://stor...t-spalding...
http://www.facebook.com/permalink.php?story_fbid=101730259893834&id=149606035079624
QuickStores Search All On eBay On Amazon On Shopping.com
facebook Search Home Profile Find Friends Account +

DerbyOfSanFrancisco's Profile

DerbyOfSanFrancisco
Answer: The jacket is scheduled to be released Spring '11. Final sampling is in the process, and production details are being worked out now. This is just our fb page... Hype hasn't even started yet... We are going to ask all Derby supporters to help with building the brand when the time is right, so the nation / world can have a piece of Frisco history. FEEDBACK appreciated... will try to answer a few questions.
October 8, 2010 at 8:42pm

15 people like this.

Martha Moore Any idea what colors will be offered? I'm guessing black and navy, but can we hope for any others (I will get one of each!)
October 8, 2010 at 8:45pm

Chris Gordon Keeping the lining of the jacket the same separates it from the wannabees... We all know when we see the bridge that it is authentic... Can't wait
October 8, 2010 at 8:49pm · 2 people

Benita Ventura-Trujillo I agree with Chris above. The lining was/is AUTHENTIC to Derby...that's how I remember mine when I was a little girl...
October 8, 2010 at 8:52pm

DerbyOfSanFrancisco Everything is kept authentic. Paisley lining, zipper, hang-tab. Colors will be the original, plus some from the 80s wardrobe.
October 8, 2010 at 9:00pm · 2 people

Michelle O'leary-Sherman it'd be really cool if it could be made locally, too.
October 8, 2010 at 9:09pm

Benita Ventura-Trujillo I loved the paisley lining. I'm an SF Native, but on temp transplant to SoCal because of my husbands military career! I hope he's back from deployment in time for the Derby launch next year, I know we've both been waiting for it!!
October 8, 2010 at 9:12pm

Dan Peterson Hell yeah! Can't wait!
October 8, 2010 at 9:12pm

DerbyOfSanFrancisco Everything has been done locally to this point. We are working hard to make this jacket affordable to the hard working individual. Available at some of the same retailers of the past.
October 8, 2010 at 9:15pm · 1 person

DerbyOfSanFrancisco Just posted a discussion, if you want to continue this...
October 8, 2010 at 9:22pm

Rachel Wood thank you for the response, guess I'm just getting anxious, that & was hoping they'd be out for xmas :)
October 9, 2010 at 8:43am

DerbyOfSanFrancisco Just contemplating if I want to sell this first prototype 2XL Black Derby on ebay.... Hmmm... It would be the first jacket to be made in over 25 years...
December 29, 2010 at 11:23pm

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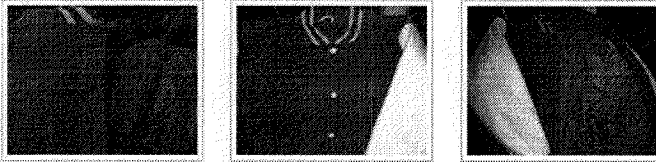
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Kurt, Your Friends Are Waiting
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Your Email
Email Password
Find Friends
Facebook won't store your password.

December 3, 2010

By DerbyOfSanFrancisco (Albums) · Updated about 6 months ago



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34 people like this.

DerbyOfSanFrancisco Derby Of San Francisco Letterman Jacket... These will be made in the USA and will be produced ASAP! Red/White, Black/Black.
We will publish a full video review Thursday! Hope you enjoy. So much more to share so soon!
December 3, 2010 at 8:33pm · 1 person

Thatchai Joe Kaewkatya Waiting patiently.
December 3, 2010 at 6:44pm

Martha Moore Love the Red & White!!! Hello sick.
December 3, 2010 at 8:52pm

Chani Trafficante Frick yeah!!! I want a dozen for mr and familia!!! (Ahhaha!!!)
December 3, 2010 at 8:55pm · 1 person

Mark Benvenuto Oh what a flashback that lining brings!! How crazy to see it after all these years!! Do you have the silver and black too??
December 3, 2010 at 9:53pm

Jayjay Jay when can we buy??
December 3, 2010 at 11:28pm

DerbyOfSanFrancisco Once the website is up (oops I said too much!) We are working out all of the links for the site and getting other "products" together to accommodate the Derby Jackets. Did you think we were just gonna have jackets?
December 3, 2010 at 11:54pm

Jayjay Jay Aww maybe belts or shirts shoot even a pair of shoes cud work
December 4, 2010 at 9:12am via Facebook Mobile · 1 person

El Rock I need both of these in my life ASAP!!!!!!!!!!!!!! How much longer must I wait?
December 4, 2010 at 9:18am · 1 person

Dustin Gonzales I would like four of those let me know when there ready
December 4, 2010 at 9:24pm

Bob Stubbs I want one!!
December 5, 2010 at 11:54am

Carlos C. Mendoza I like them!
December 5, 2010 at 9:17pm

Sevag Injaian I think this style is absolutely great...I had a niners jacket exactly like this but no derby gold liner..I must have one!
December 15, 2010 at 10:41pm · 1 person

DerbyOfSanFrancisco Just contemplating if I want to sell this first prototype 2XL Black Derby on ebay.... Himmminn. It would be the first Jacket to be made in over 25 years....
December 29, 2010 at 11:22pm

El Rock I'll take it! Holla!
December 29, 2010 at 11:23pm

ATrain N Jaylo Guarantee you'll sell out!! Make a batch 2x and 3x betcha u sell out!! (US SAYIN!!)
January 8 at 8:30am

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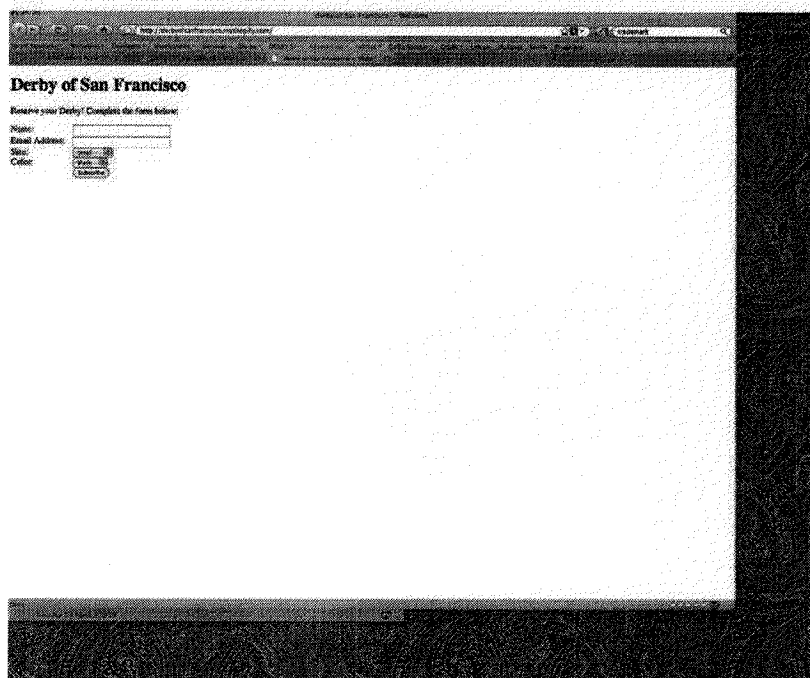
Find Friends

Facebook won't store your password.

Exhibit L-3

DerbyOfSanFrancisco's Photos - Wall Photos

Photo 23 of 25 Back to Album DerbyOfSanFrancisco's Photos DerbyOfSanFrancisco's Profile Previous Next



RESERVE YOUR DERBY!!! We are getting very very close.... In the next few days you will be able to RESERVE YOUR DERBY!!! It has been alot of work and awhile but we are almost there!

Added February 13

33 people like this.

-  Jose Rivera Throw the link up.
February 13 at 7:31pm · 1 person
-  Matt Omer Yes link...please...
February 13 at 7:57am · 2 people
-  Sean Abbey Great!! I will be reservng at least (5) + will all my friends, family, the number will be going up very fast.
February 13 at 7:39pm · 1 person
-  Virgil Coup Pricing??
February 13 at 7:42pm · 1 person
-  David Miles no XOL?
February 13 at 7:48pm · 1 person
-  Diana Baldocchi Yes, please be sure to post the link...
February 13 at 7:48pm · 1 person
-  DerbyOfSanFrancisco Please any reservations before the time it is released wont be honored....
February 13 at 7:52pm · 1 person
-  DerbyOfSanFrancisco It is being desinged right now by one of the baddest artists in the land! DUG ONE morningbratinc.com
February 13 at 7:53pm · 4 people
-  Ronald Wang Colors? Black or brown?
February 13 at 7:52pm
-  Ho Wah is it going to have the leather thingy on the zipper?
February 13 at 7:58pm · 1 person
-  DerbyOfSanFrancisco Yup!
February 13 at 6:10pm · 2 people
-  Yero Yee =)
February 13 at 8:22pm · 1 person
-  Andrew Cataldo Want.
February 13 at 8:27pm · 1 person
-  Pat Cessano growing up in self a derby was mandatory and we got them at santitas
February 13 at 8:39pm · 1 person
-  Bill Gawley I bought my Jacket at "GETS" on Sloat Blvd. In Navy Blue and also picked up a pair of black Ben Davis, and Santa Rosa Steel Toes worn with a white tee shirt.
February 13 at 9:24pm · 3 people
-  D.J. Burdick And Ross Stores when they sold NICE clothes (Once upon a time)
February 13 at 9:30pm
-  Joshua K. Mire When is the RSV? available?
February 13 at 9:50pm · 1 person

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People in this Album

See All



Victor Suarez
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Ces Omer
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DerbyOfSanFrancisco's Profile



DerbyOfSanFrancisco

I got this sad email this morning.....

"Due to unfortunate circumstances we will not be able to begin production on the custom zipper you wish us to produce for at least 90 days"
-YKK Japan.

"F@CK" does someone want to drive me to the Golden Gate Bridge?

April 20 at 10:16am

4 people like this.



Matt Oner so what you sayin? (i we have to wait 90 days for me to be draped in a bad ass jacket? :(
April 20 at 10:19am · 2 people



Lorraine Lathrop Larkin no not today. This to shall pass.
April 20 at 10:51am



Angela De Benedetto It's okay :). You've got 90 extra days to boost your advertising! (Plus lately people have been jumping AND living....)
April 20 at 10:51am



DerbyOfSanFrancisco I know with my fuck all jump and land in a ships smoke stack!
And I have been rasting and enjoying life thinking everything is on auto pilot. Everything is done except for the zipper.
April 20 at 10:53am



Aricka Irwin Didn't Japan just have a major disaster??? I think I can give 'em 90 days...
April 20 at 10:53am · 3 people



Michael Rose These are some pretty good reasons NOT to outsource..
April 20 at 10:54am · 1 person



DerbyOfSanFrancisco No I know there was a disaster and I feel really bad for those lost and the damage it has caused but of all things.
April 20 at 10:54am · 1 person



Matt Oner word... well we have all waited a lot longer than 90 days. as Lorraine said, this too shall pass. Can't wait. Maybe one day I'll have a bigger collection than DJ NARZ and DJ EONS1.
April 20 at 10:54am · 2 people



Matt Oner Now if you can just reopen Schneider's in San Carlos and sell them there like they did.
April 20 at 10:57am · 1 person



Aricka Irwin Didn't YKK make the original zippers? Gee I miss my vintage Derby. :(
April 20 at 10:59am



Kathy Dempsey-Dodge I agree with Michael... isn't there a way to keep this "on house" aka made in america..
April 20 at 10:59am



DerbyOfSanFrancisco YES but they dont stock those anymore they had to be made in Japan
April 20 at 10:58am



Aricka Irwin Sorry. I know it sucks that you can't have them now, but we've waited this long..
April 20 at 11:01am



Tony Traverso Hey guys don't be mad at Derby for having to get the zipper over seas. Get mad at your government for selling out and sending our manufacturing out of the country. The United States is no longer a nation of manufacturing... we're just consumers who want everything cheap. It's a miracle that Derby is able to manufacture anything here in the states.
April 20 at 11:09am · 2 people



Ocean Beach Bulletin Want to talk about it, maybe for a brief article? bm.af/oceanbeachbulletin.com. BTW, at last night's community meeting at Taravel PO station, an older guy in the front row was rocking a tan Derby.
April 20 at 11:12am · 1 person



Sean Abbey I won't wear a derby without a zipper...well 90 is not that bad...just days longer I get to keep wearing my vintage black derby until the new ones come out.
April 20 at 11:46am · 1 person



Sevag Injain Whatever,i want a new derby to add to the vintage collection...all hurry up and wait.
April 20 at 11:57am · 1 person



Sean Abbey I want a new derby for everyday of the week when they come out..
April 20 at 12:00pm · 1 person



Darth Fader It's 4/20 primo - I won't drive you to the bridge - but maybe blaze you out something proper!!! Stay strong primo!!
April 20 at 2:06pm · 1 person



Tonish Jones The zippers aren't available to be made China like everything else that I own?
April 22 at 7:15am



DerbyOfSanFrancisco No China is not authorized to produce a YKK zipper past 20 inches!
April 22 at 9:16am

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Jodi Ketry
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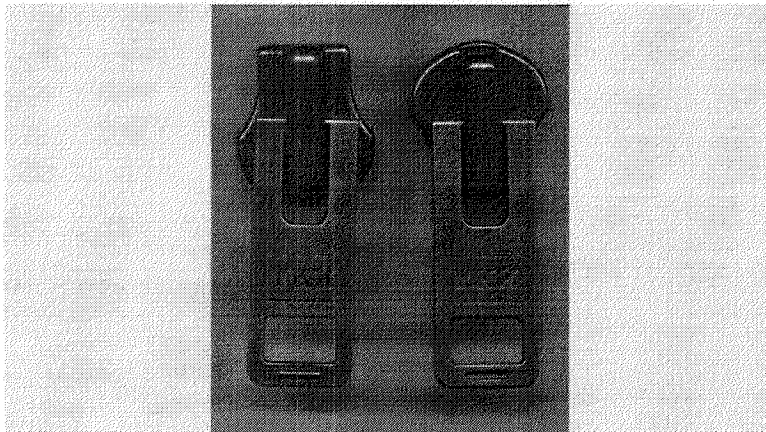


Sharon Wood
1 mutual friend
[Add as friend](#)

Exhibit L-5

DerbyOfSanFrancisco's Photos - Wall Photos

Photo 25 of 25 Back to Album DerbyOfSanFrancisco's Photos DerbyOfSanFrancisco's Profile



Today I get an email which shows me front and back of the NEW ZIPPER from YKK Japan. I put my approval stamp on there. Now it's time to rock and roll people. I would honestly say that this thing should be done in about 45 to 90 days.
EVERYTHING IS COMPLETE!

From the album:
Wall Photos by DerbyOfSanFrancisco

Share
Report This Photo

Adios Yesterday

53 people like this.

- Matt Over** word!
15 hours ago
- Sean Abbey** Nice.
15 hours ago
- Norm Quiros** (angels sing)
15 hours ago
- DerbyOfSanFrancisco** Shit I'm singing!
15 hours ago · 45.3 people
- Michael Pabros** I met this girl who's mother work at the original SF Derby
15 hours ago
- Mark Gortney** Fxxx!
15 hours ago
- DerbyOfSanFrancisco** FRESH!
15 hours ago
- Melanie Dinos** I am so excited!!
15 hours ago
- Cary Welch** Dope
15 hours ago
- Carlos Guzman** When can I place me order?
15 hours ago
- Tj Alom Eng** It'll be com'in around the mountain when it comes...
15 hours ago
- Josh Almond** so, we might have them by September?
15 hours ago
- Joshua Carrasco** Remember me and my wife I will purchase 2 derbies. Double x, medium in black. Thanks bro.
15 hours ago
- Matthew Ayotte** Sick.
15 hours ago
- Fitzroy Sarmiento** official
15 hours ago
- Senae Ponce** YAY! :)
12 hours ago
- Carlos Guzman** I need a Brown one and two Black Classics. The Brown one is for a youth mentoring project I'm founding. IT'S A MUST!
11 hours ago
- Dino Folsanen** Nazi Nartea Yessss!
11 hours ago
- Angela Tickler** Way to go Victor! Can't wait - have added like twenty people to our waiting list in the last two weeks!
10 hours ago
- Rich Gonzales** Congrats! I can't wait to buy a couple from you.
9 hours ago
- John Yelding-Sloan** So the zipper on my Derby is going to cryptically read YKK?
8 hours ago

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Find More Friends

Kurt, Your Friends Are Waiting



The friend finder is better than ever. Try it.

Your Email

Email Password

Find Friends

Facebook won't store your password.

From: Jim Murta [mailto:jim@coloradoplav.com]
To: kurt@coloradoplav.com
Cc:
Subject: Fw: RE: Derby of San Francisco Opposition / Our Ref.: 1354.0004

Sent: Fri 5/27/2011 12:05

From: Marina Lewis <mlewis@dergnoah.com>
Subject: RE: Derby of San Francisco Opposition / Our Ref.: 1354.0004
To: "Jim Murta" <jim@coloradoplav.com>
Date: Monday, April 11, 2011, 4:38 PM

Dear Jim:

Thank you for your e-mail. I have discussed your response with Mr. Suarez and he is disappointed that you have chosen to pursue this opposition. He does not believe that you have any genuine grounds on which to oppose his application, as the photo you provided in your e-mail does not point to any evidence of fraud on Mr. Suarez's part, or to the facts asserted in his application. On the other hand, Mr. Suarez does have legitimate grounds to contest your trademark application for the DERBY OF SAN FRANCISCO design, as both his application filing date and use of his mark pre-date your own. (We are aware that the U.S. Trademark Office has suspended your trademark application in view of Mr. Suarez's earlier-filed mark on the grounds that the Trademark Office believes that your application is likely to cause confusion among consumers.)

Moreover, it appears that you only filed your federal trademark application *after* learning of Mr. Suarez's use of his DERBY OF SAN FRANCISCO logo, information Mr. Suarez disclosed to you in previous business dealings. We are also aware that you have sent a notice to Facebook in which you accuse Mr. Suarez of trademark infringement, even though both his statutory and common-law trademark rights are superior to your own. Given these circumstances, it would appear that your attempt to oppose Mr. Suarez's application is not grounded in any good faith belief that Mr. Suarez has committed fraud, or that you possess superior rights. Rather, it appears you are simply attempting to disrupt Mr. Suarez's legitimate efforts to use his own brand.

Mr. Suarez remains hopeful that we may be able to resolve this matter amicably and avoid expensive litigation proceedings. To that end, he is willing to re-open discussions on a possible business arrangement in which both parties may benefit from his successful promotion of the DERBY OF SAN FRANCISCO brand. If you are interested in seeking a peaceful resolution, please let me know. Otherwise, be advised that Mr. Suarez fully intends to move forward in this proceeding and will enforce his rights through all available legal means.

We look forward to your response.

Best regards,

Marina

Marina A. Lewis

Dergosits & Noah LLP

Three Embarcadero Center, Suite 410

San Francisco, California 94111

Tel: (415) 705-6377

Fax: (415) 705-6383

mlewis@dergnoah.com

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-----Original Message-----

From: Jim Murta [mailto:jim@coloradoplav.com]
Sent: Monday, April 11, 2011 8:11 AM
To: Marina Lewis
Subject: Derby of San Francisco Opposition

Hello Marina,

I did receive your phone message. And yes I do intend on opposing Victor Suarez on grounds of fraudulent application. I believe in my heart he is trying to deceive the USPTO. The fake photos are what tipped me off to his fraudulent application.

I am meeting with an attorney today.

Take a look at this link, then look at at Mister Suarez specimen photos on his application.

<http://cgi.ebay.com/ws/eBaySAPI.dll?ViewItem&item=390298111205&ssPageName=ADME:B:WNAFP:US:1123>

Respectfully,

James Murta

W
+
b.
3

Exhibit N

